

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

GROVER H. DAVIS,

Plaintiff,

v.

THOMAS E. SHUMAKER,

Defendant,

CASE NO. 1:08-CV-891

HON. ROBERT J. JONKER

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**ORDER AND JUDGMENT APPROVING REPORT AND RECOMMENDATION**

The Court has reviewed the Magistrate Judge's Report and Recommendation (docket # 11), and Plaintiff's Objection (docket #12). Where a party has objected to portions of a Report and Recommendation, "[t]he district judge. . . has a duty to reject the magistrate judge's recommendation unless, on de novo reconsideration, he or she finds it justified." 12 Wright, Miller, & Marcus, Federal Practice and Procedure § 3070.2, at 381 (2d ed. 1997). Specifically, the Rule provides that:

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter of the magistrate judge with instructions.

Fed. R. Civ.P. 72(b)(3); *see also* 28 U.S.C. § 636(b)(1)(C). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6<sup>th</sup> Cir. 1981).

The Court has reviewed de novo the claims and evidence presented to magistrate Judge Brenneman; the Report and Recommendation itself; and Plaintiff's Objection.